

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JUN 01 2006

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

PATRICIA A. LONG and  
AMARIS J. LONG,

Plaintiffs,

vs.

PEND OREILLE COUNTY  
SHERIFF'S DEPARTMENT, et al.,

Defendants.

No. CV-04-344-AAM

**ORDER DENYING  
MOTION TO DISMISS  
AS SANCTION**

**BEFORE THE COURT** is the motion of the Pend Oreille County defendants to dismiss plaintiffs' complaint as a sanction for failure to timely comply with this court's April 13, 2006 order directing that within ten calendar days, plaintiff Patricia Long provide defendants' counsel with a complete copy of her Social Security Disability file, and complete copies of all records of any psychiatric or psychological examinations or evaluations of her since 1985. Alternatively, this court directed that within ten days, plaintiff provide defendants' counsel with signed authorizations enabling him to procure these records directly from the Social Security Administration and medical providers.

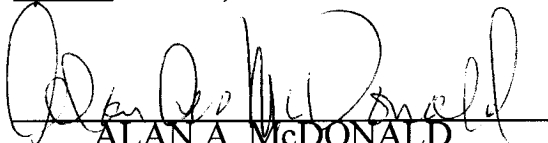
**ORDER DENYING MOTION  
TO DISMISS AS SANCTION-**

1 In his affidavit, plaintiffs' counsel indicates that Patricia Long signed an  
2 authorization on April 18, 2006, but that because of a family emergency and  
3 circumstances arising therefrom, the authorization was not faxed to defendants'  
4 counsel until May 23. Based on the affidavit, this court finds the failure of plaintiffs'  
5 counsel to timely submit the authorization was "substantially justified"  
6 and that other circumstances make an award of sanctions "unjust," especially such a  
7 drastic sanction as dismissal. Fed. R. Civ. P. 37(b)(2). If, however, defendants'  
8 counsel requests additional time for discovery and is able to establish that delay in  
9 receipt of the signed authorization makes it unreasonable for defendants to meet the  
10 July 14 discovery deadline, the court will be inclined to grant the request. The court  
11 assumes that with the authorization, defendants' counsel has access to all the  
12 information needed.

13 "Pend Oreille County Defendants' Motion To Dismiss As Sanction For  
14 Violation Of Court Order" (Ct. Rec. 62) is **DENIED**.

15 **IT IS SO ORDERED.** The District Executive is directed to enter this order  
16 and forward copies to counsel of record.

17 **DATED** this 1st of June, 2006.

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19 ALAN A. McDONALD  
20 Senior United States District Judge  
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27 **ORDER DENYING MOTION**  
28 **TO DISMISS AS SANCTION-**